neither party can rely on the notice and the learned Judge should not have given effect to it. For these reasons, we allow this appeal and restore the decision of the learned District Judge with costs here and below to the appellants.

*Appeal allowed.*

Solicitors: *Jing Quee & Chin Joo; Lim & Lim*

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## THE OFFICIAL ASSIGNEE (of the property of Prabhaker Chandulal Shah) v. COLLECTOR OF LAND REVENUE.

**[C.A. (Wee Chong Jin C.J., Kulasekaram & Lai Kew Chai JJ.) January 18, 1984]**

**[Singapore – Civil Appeal No. 11 of 1982]**

*Land Acquisition – "Land occupied by H.M. Forces" – Compensation for acquisition for the sum of $211,972 – Land bought for $400,000 – Appeal on behalf of bankrupt purchaser against said compensation – Land Acquisition Act (Cap. 272), ss. 33(1)(a) & 33(5)(e).*

In this case the appellant bought the subject property for $400,000.00 in July 1971 and at all material times used it as a store-house for his pepper trade. In January 1975 the property was compulsorily acquired and the Collector of Land Revenue made an award of $87,637.50. Subsequently it was increased to $211,972.00. The Appeals Board (Land Acquisition) confirmed the award of the Collector of Land Revenue. The appellant (who had now become a bankrupt) appealed against the decision of the Appeals Board.

Held, allowing the appeal: (1) the Appeals Board had erred in law in coming to the conclusion that the ascertainment of the market value of the property should be made on the basis of its market price as a piece of land occupied by Her Majesty's Forces. Since 1975 Her Majesty's Forces had ceased to occupy any land in Singapore. Accordingly, this alternative basis for evaluating the market value of such a property under section 33(5)(e) of the Land Acquisition Act was no longer available since its foundation in fact had totally disappeared since 1975;

(2) in these circumstances, the market value of the property as at November 30, 1973, within the meaning of sections 33(1)(a) and 33(5)(e) should be assessed on the basis of its existing use. Seeing that the appellant's purchase had taken place at a time sufficiently proximate to November 30, 1973 the award should have been fixed at $400,000.00.

COURT OF APPEAL.

*Lee Han Yang* for the appellant.

*P. Selvadurai* for the respondent.

*Cur. Adv. Vult.*

**Lai Kew Chai J.** (delivering the Judgment of the Court): This is an appeal against the order of the Appeals Board (Land Acquisition) which confirmed the Award of the Collector of Land Revenue of $211,972.00 as compensation for the acquisition of the Appellant's property.

The property was used at all material times as a store for pepper. It was a pre-war two-storey building constructed of corrugated asbestos roof on timber frame, brick walls and re-inforced concrete floor. Immediately behind the brick building stood a large single-storey open shed with zinc roof and wall structure. In August 1972 written planning permission was granted under the Planning Act for the retention of the additions and alterations to the existing building for use as a pepper store. The total floor areas of the building and the shed were approximately 1,015 sq metres.

The land on which the building and shed were erected contained an area of 3,305 sq. metres. According to the Town Map of the 1965 Revised Master Plan, which was current, the property was indicated as "Land occupied by H.M. (Her Majesty's) Forces". Although this was the indication in the Town Map, the property was never occupied nor used by the British armed forces since 1939.

It is common ground that in 1975 the British armed forces left Singapore and ceased to occupy any land in Singapore.

On July 22, 1971 the Appellant bought the property at $400,000.00. In January 1975 the property was acquired compulsorily. Although the original Award of the Collector of Land Revenue was made at only $87,637.50, it was later increased to $211,972.00. Despite the increase of the Award, the amount of compensation as affirmed by the Appeals Board is only slightly more than half the price paid by the Appellant who had bought the property on a "willing seller willing buyer" basis for use as a warehouse for pepper.

Before the Appeals Board it was successfully argued on behalf of the Collector of Land Revenue that under section 33(1)(a) read with section 33(5)(e) of the Land Acquisition Act (Cap. 272) (hereinafter referred to as "the Act"), the market value of the property shall be the price which a *bona fide* purchaser might reasonably be expected to pay for the property "in anticipation of the continued use of the land for the purpose designated in the Master Plan." On that basis, the Appeals Board came to the conclusion that the property being designated as "Land occupied by H.M. For-

ces" was virtually sterile land and affirmed the Award of the Collector of Land Revenue.

In our view the Appeals Board had erred in law in coming to the conclusion that the ascertainment of the market value of the property should be made on the basis of its market price as a piece of land occupied by Her Majesty's Forces. Since 1975 Her Majesty's Forces had ceased to occupy any land in Singapore. Accordingly, this alternative basis for evaluating the market value of such a property under section 33(5)(e) of the Act was no longer available since its foundation in fact had totally disappeared since 1975.

In these circumstances, the market value of the property as at November 30, 1973 within the meaning of sections 33(1)(a) and 33(5)(e) should be assessed on the basis of its existing use. The Appellant was a *bona fide* purchaser of the property in July 1971. He bought the property on the basis of its existing and lawful use as a store for pepper. Seeing that the Appellant's purchase had taken place at a time sufficiently proximate to November 30, 1973 we are of the view that the Award should have been fixed at $400,000.00. The appeal is allowed with costs here and below. The Award is increased to $400,000.00.

*Appeal allowed.*

Solicitors: *Lee Woo & Partners; Rodyk & Davidson.*

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## IN THE MATTER OF LEE WAH CANE FURNITURE PTE. LTD.

**[O.C.J. (Chua J.) January 25, 1984]**
**[Singapore – Companies Winding Up No. 53 of 1983]**

*Company Law – Examination of legal adviser of company regarding affairs of company – Application by Liquidators of Company – Whether allowed – Companies Act (Cap.185), s. 249(1).*

*Legal Profession – Professional privilege – Solicitor acting as legal adviser to company – Asst. Registrar's order that he be examined on oath concerning affairs of Company – Order discharged by High Court – Companies Act (Cap. 285), s. 249(1) – Evidence Act (Cap.5), s. 128(1).*

*Company Law – Legal adviser for company – Whether he may be examined on oath concerning affairs of company – Scope of Companies Act (Cap.285), s. 249(1).*

On the application of the Liquidators of Lee Wah Cane Furniture Pte. Ltd. (the Company) the Asst. Registrar made an Order that Ronald Lee, a legal adviser for the company, may be examined on oath concerning the affairs of the company and produce all books and papers in his custody or power relating to the company.

Exception was taken to the order for examination under section 249(1) and is based on 3 grounds. First, privilege of professional communication; second, the liquidators are contemplating instituting other legal proceedings and are seeking on the examination of Ronald Lee to obtain evidence; third, Ronald Lee has already assisted the liquidators within his capacity and within the bounds of professional privilege.

A motion was made on behalf of Ronald Lee for an order that the Asst. Registrar's order made under section 249 of the Companies Act against Ronald Lee be discharged or varied or modified.

**Held:** on the first ground alone the order of the Asst. Registrar should be discharged. The liquidators were also attempting to use this section in an improper way as a means of aiding them in other litigations. Ronald Lee has assisted the liquidators within his capacity and within bounds of professional privilege;

(2) the liquidator must therefore pay to Ronald Lee his costs of this application.

*Cases referred to:*

(1) *Re Maville Hose Ltd.* [1938] 3 All E.R. 621.
(2) *Re Rolls Razor Ltd. (No. 2)* [1969] 3 All E.R. 1386.
(3) *Re North Australian Territory Company* (1890) 45 Ch.D. 87.

MOTION.

*G. Raman* for Ronald Lee.
*Wong Meng Meng* for the liquidators.

*Cur. Adv. Vult.*

**Chua J.**: This is a Motion made on behalf of Ronald Lee Kum Seng (Ronald Lee) for an order that the Asst. Registrar's order made under Section 249 of the Companies Act against Ronald Lee be discharged or varied or modified.

The Asst. Registrar's order, made on the application of the Liquidators of Lee Wah Cane Furniture Pte. Ltd., (the Company) was that Ronald Lee may be examined on oath concerning the promotion, formation, trade dealings, affairs or property of the Company, and to produce all books and papers in his custody or power relating to the Company.

Section 249(1) of the Companies Act provides as follows:

"249-(1) The Court may summon before it any officer of the company or person known or suspected to have in his